

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0693P

**Individual Income Tax
Calendar Year 1997**

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ISSUE(S)

I. **Tax Administration**— Civil Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated November 13, 1998 protested the penalty assessed and states that Information Bulletin #3 took effect September 1997 and the tax return for 1997 was filed timely. In addition, the tax preparer and an accounting firm were not aware of Information Bulletin #3.

Taxpayer filed its 1997 IT-40 on March 30, 1998 with a tax balance due of \$435.

The Department assessed a civil penalty in the amount of \$39.15 that reflects a ten percent (10%) penalty calculated on ninety percent (90%) of total tax. In its protest, taxpayer states Information Bulletin #3 does not apply, as it was issued in September 1997.

I. **Tax Administration**— Civil Penalty

DISCUSSION

Taxpayer requests the department waive the penalty assessed because it was not aware of Information Bulletin #3 that requires the filing of estimated tax payments by individuals having an annual income tax liability that is over \$400.

Although the taxpayer may not agree with Information Bulletin #3, the 1997 Indiana Resident Individual Tax Booklet, on page 29, clearly states who must make estimated income tax payments. An ES-40 Estimated Tax Payment coupon and an Estimated Income Tax Worksheet are included on the page.

IC 6-3-4-4.1 (c) states:

Every individual who has gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable years. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than four hundred dollars (\$400). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-10-2.1(b).

Information Bulletin #3 (September 1997) replaces the July 1995 bulletin that required estimated payments if the liability exceeded one hundred dollars (\$100).

A review of the taxpayers' IT-40 indicates that no tax was withheld and no estimated tax payments were made. Taxpayer paid its entire liability at the filing of the IT-40. The return, line 31 also clearly lists penalty for underpayment of estimated tax for 1997. Taxpayer had listed the penalty but removed it before filing the return.

FINDING

Taxpayer's protest is denied.